

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

RICHARD ROSE, *et al.*

Plaintiffs,

v.

BRAD RAFFENSPERGER, in his
official capacity as Secretary of State
of the State of Georgia,

Defendant.

CIVIL ACTION

CASE NO. 1:20-cv-2921-SDG

**SECRETARY OF STATE BRAD RAFFENSPERGER'S
STATEMENT OF MATERIAL FACTS AS TO WHICH THERE IS NO
GENUINE DISPUTE TO BE TRIED**

Defendant Secretary of State Brad Raffensperger, pursuant to Local Civil Rule 56.1(B)(1), provides his Statement of Material Facts as to Which There is No Genuine Dispute to be Tried, showing the Court the following:

1.

No Plaintiff has ever been prohibited from voting based on their race. Deposition of Brionté McCorkle [Doc. 74] ("McCorkle Dep."), 20:24-21:8; Deposition of Wanda Mosley [Doc. 77] ("Mosley Dep.") 22:9-16; Deposition of Richard Rose [Doc. 75] ("Rose Dep."), 16:2-14; Deposition of James Woodall [Doc. 76] ("Woodall Dep."), 21:9-17.

2.

Several Plaintiffs testified that they have never had trouble participating in the political process or that any trouble participating was unrelated to their race. Mosley Dep., 32:15-18; McCorkle Dep., 31:19-25.

3.

Several Plaintiffs acknowledged that Black voters in Georgia typically support Democratic candidates. McCorkle Dep., 22:4-8; Mosley Dep., 23:13-16.

4.

Plaintiff Richard Rose agreed that there are situations where Black-preferred candidates can succeed in statewide elections. Rose Dep., 18:15-24.

5.

In the 2020 general elections, candidates supported by black voters were successful in the presidential race and two U.S. Senate races. Expert Report of Michael Barber, Ph.D., attached as Ex. A (“Barber Report”), pp. 8-10.

6.

Dr. Barber concluded that the only reason that the Black-preferred candidate was unsuccessful in 2021 was due to Black voters not voting all the way down the ballot. Barber Report, pp. 15-20.

7.

Dr. Barber found that partisanship was the key predictor of vote choice, regardless of the race of the candidate. Barber Report, p. 21.

8.

Plaintiffs' experts do not disagree that partisanship plays a role, but believe that partisanship and race cannot be untangled. Expert Report of Bernard L. Fraga, Ph.D., attached as Ex. B ("Fraga Rebuttal Report"), pp. 2-9.

9.

The Public Service Commission regulates utilities in different ways. Deposition of Tricia Pridemore [Doc. 71] ("Pridemore Dep."), 14:4-16:3.

10.

Commissioners must constantly weigh the reliability of a solid, secure system with the price of operating that system. Pridemore Dep., 83:5-84:2; 89:2-10.

11.

Decisions about rates affect all ratepayers across the state. Deposition of Lauren McDonald [Doc. 73] ("McDonald Dep."), 46:12-47:15.

12.

Commissioners take calls from constituents across the state of Georgia, not just in their districts. McDonald Dep., 54:4-55:2; Pridemore Dep., 87:24-89:1.

13.

Commissioners function as a quasi-judicial body, hearing rate cases as a group, taking witnesses, and weighing testimony from the public and parties. Deposition Charles Eaton [Doc. 72] (“Eaton Dep.”), 93:4-95:21.

14.

The PSC can assess fines. Eaton Dep., 110:18-111:17.

15.

The PSC administers federal funds for pipeline safety across the State of Georgia. Eaton Dep., 104:16-105:2.

16.

This statewide structure has also benefitted Plaintiff McCorkle, who testified that a Commissioner from a different district was willing to talk and meet with her when the Commissioner who lives in her district would not. McCorkle Dep. 30:5-31:12.

17.

Under Plaintiffs' proposed scheme, Ms. McCorkle would not be able to vote for the Commissioner who assisted her. McCorkle Dep. 30:5-31:12.

Respectfully submitted this 9th day of July, 2021.

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CERTIFICATE OF COMPLIANCE

Pursuant to L.R. 7.1(D), the undersigned hereby certifies that the foregoing SECRETARY OF STATE BRAD RAFFENSPERGER'S STATEMENT OF MATERIAL FACTS AS TO WHICH THERE IS NO GENUINE DISPUTE TO BE TRIED has been prepared in Century Schoolbook 13, a font and type selection approved by the Court in L.R. 5.1(B).

/s/ Bryan P. Tyson
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